



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
WATER

SEP . 4 1985

MEMORANDUM:

SUBJECT: Underground Injection Control Multi-case Enforcement Initiative

FROM: *Glenn L. Unterberger*
Glenn L. Unterberger, Associate Enforcement Counsel
for Water
Office of Enforcement and Compliance Monitoring
Victor J. Kimm
Victor J. Kimm, Director
Office of Drinking Water

TO: Water Supply Branch Chiefs
UIC Regional Counsel
Regions I-X

The Office of Enforcement and Compliance Monitoring and the Office of Water are contemplating nationally coordinated enforcement in direct implementation States against owners and operators of underground injection facilities which are violating Federal regulations. We know that there are owners and operators who have not applied for permits and others who are violating their permit conditions, and that there is diversity in the Regional response. At the end of June new requirements for DI States became effective. Headquarters would like to help you position yourselves for the increased enforcement responsibility and achieve greater national consistency.

This memorandum solicits your comment and advice on the concept, the proposed categories of cases, the timing, and your estimate of the number of candidates for judicial action in your Region. The Agency believes that a coordinated enforcement effort would have several benefits for the UIC program. It would help establish a credible enforcement presence for the new program in the regulated community. The cooperation among OECM, ODW, and the Department of Justice and simultaneous filing of as many cases as possible would expedite the initial UIC enforcement actions. Perhaps most important, publicity about the prompt actions should increase voluntary compliance. A similar coordinated effort for POTW pre-treatment enforcement culminated in the filing of several civil complaints in April 1985. In addition, that initiative already seems to have motivated several POTW's to come into compliance.

There are four categories of violations that appear to Headquarters staff to be of top priority. They are:

1. Failure to close Class IV wells as required by UIC regulations (40 CFR §§144.13, 144.23) and by the RCRA amendments (Hazardous and Solid Waste Amendments of 1984, §7010a, 42 USC 6979a);
2. Contamination of underground sources of drinking water (§144.12);
3. Unauthorized injection, including construction of new wells without authority, (40 CFR §§144.11, 144.51(m)) and injecting into existing wells with expired authority (40 CFR §§144.21, 144.26); and
4. Failure to comply with requests including: requests for information (40 CFR §§144.27, 144.51 (h)), requests for entry and inspection (§144.51(i), applications for a permit from an owner operating under authority of a rule (§144.25), and compliance with a regional administrator's schedule for mechanical integrity demonstrations (§144.51(p)) particularly for Class I wells.

For those Regions (especially II, IV, and V) where loss of authorization due to failure to submit inventory information is a serious problem, enforcement action arising from loss of authorization is likely to be the highest priority. Detailed guidance on this subject will be supplied soon.

In order to achieve maximum impact, the Agency would like to bring actions with geographical diversity, for different violations, and against different kinds of owners and operators.

The tentative schedule leads to filing the cases in early 1986 with intermediate milestones as indicated below. We recognize that resources are short, and we would appreciate comments on whether this schedule is reasonable.

<u>Milestones</u>	<u>Proposed Dates</u>
Memorandum to Regions	August 30, 1985
Planning Meeting with DOJ	Second week in September, 1985

Response from Regions

September 27, 1985

HQ sends "call letter" to Regions establishing firm referral schedule for initiative and requesting names of referral candidates. Regions identify top enforcement candidates

October 31, 1985

Regions submit referral packages to EPA Headquarters

December 16, 1985

EPA Headquarters transmits referrals to DOJ; Agency communications plan completed

January 24, 1986

DOJ files complaints

February 24, 1986

The Office of Water, OECM, and the Department of Justice have agreed on streamlined procedures to ensure expeditious filing of these cases.

Please send your reactions, comments, questions, and preliminary nominations of at least three candidates for enforcement action to Paul Baltay by September 27, 1985. The names of the enforcement candidates will help give us a working list of possible target facilities. The number of cases ultimately referred will, of course, depend upon appropriate candidates and available resources.

Again, we recognize the resource demands you face and hope this procedure will simplify the enforcement actions that must be taken as part of implementing a program in which EPA has taken few formal enforcement actions to date.

cc: Water Management Division Directors
Regional Counsels
Carol Green, DOJ